

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55210; File No. SR-NYSE-2007-08)

January 31, 2007

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt New Rule 15B(T) Relating to Intermarket Sweep Orders

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on January 26, 2007, the New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II, which Items have been substantially prepared by the Exchange. NYSE has designated the proposed rule change as constituting a “non-controversial” rule change under Section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to adopt NYSE Rule 15B(T), a temporary rule which describes the obligations of Exchange member organizations when sending Intermarket Sweep Orders (“ISOs”) to the Exchange prior to the Trading Phase Date of Regulation NMS (“Reg. NMS”). The text of the proposed rule change is available at NYSE, the Commission’s Public

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

Reference Room, and [www.nyse.com](http://www.nyse.com).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of its rollout of the Hybrid Market,<sup>SM</sup> the Exchange is set to begin implementation of Phase IV, which includes changes necessary for NYSE's compliance with Reg. NMS. Specifically, the Phase IV software will include the acceptance of ISOs and non-routing immediate-or-cancel orders ("Reg. NMS IOCs"), auto-routing to 100-share quotations, and implementation of new locking and crossing rules approved by the Commission. The Phase IV rollout will occur in a controlled manner through the Trading Phase Date, March 5, 2007.<sup>6</sup> Following an initial successful period of trading, the Exchange will deploy the Phase IV software on an accelerated basis, providing notice to members and member organizations of the timing for each group of securities migrating to Phase IV.

The Exchange seeks to amend its rules to require member organizations that send ISOs to the Exchange prior to the Trading Phase Date of Reg. NMS to simultaneously send an ISO (or comparable order) for the full displayed size of the top of the book of every other ITS participant

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<sup>6</sup> See Securities Exchange Act Release No. 55160 (January 24, 2007), available at <http://www.sec.gov/rules/final/2007/34-55160.pdf> (extending the Trading Phase Date until March 5, 2007).

displaying a better-priced quotation. This temporary rule is intended to mirror the requirement, which will be operative after the Trading Phase Date, that all incoming ISOs meet the requirements as described in Rule 600(b)(30) of Reg. NMS,<sup>7</sup> and is designed to ensure that member organizations honor better-priced quotes of other ITS participants when submitting ISOs to the Exchange prior to the Trading Phase Date.<sup>8</sup> The NYSE expects that this temporary rule will be in effect only until the Trading Phase Date, at which time it will be deleted from its rulebook.

In addition, the NYSE notes that it has requested an exemption from certain provisions of the Intermarket Trading System Plan and NYSE Rule 15A to allow the NYSE to implement the Reg. NMS Compliance aspects of the Phase IV rollout prior to the Trading Phase Date.<sup>9</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(5) of the Act<sup>10</sup> that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public interest.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>7</sup> 17 CFR 242.600(b)(30).

<sup>8</sup> See Telephone call between Craig Hammond, Managing Director, NYSE, and Richard Holley III, Special Counsel, Division of Market Regulation, Commission, dated January 29, 2007.

<sup>9</sup> See Letter from Mary Yeager, Assistant Secretary, NYSE, to Nancy M. Morris, Secretary, Commission, dated January 26, 2007.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder<sup>12</sup> because the proposal does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.<sup>13</sup> NYSE has requested that the Commission waive the 30-day operative delay and designate the proposed rule change effective immediately. The Commission hereby grants the request.<sup>14</sup> The Commission believes that such waiver is consistent with the protection of investors and the public interest because immediate effectiveness of the proposed rule change will assist the Exchange in its efforts to ensure that its member organizations honor better-priced quotations of other ITS participants when they send ISOs to the Exchange for execution.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> Rule 19b-4(f)(6)(iii) under the Act requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE has satisfied the pre-filing requirement.

<sup>14</sup> For purposes only of waiving the 30-day operative delay of the proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>15</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2007-08 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2007-08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

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<sup>15</sup> See 15 U.S.C. 78s(b)(3)(C).

available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2007-08 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).